

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Lands - Kadapa District – Revision Petitions – Revision Petition filed by Sri Maram Srinivasulu Reddy and Maram Venkata Ramana Reddy S/o Subbaiah (Late) against the orders passed by the Commissioner of Appeals, O/o Chief Commissioner of Land Administration, Hyderabad in his Proceedings No. BCW 5/200/2008, dated. 9-3-2009 – Revision Petition Dismissed – Orders – Issued.

REVENUE (ASSN.IV) DEPARTMENT

G.O. Ms No. 475

Dated: 21st April 2011.

Read the following:-

1. Commissioner of Appeals O/o Chief Commissioner of Land Administration, Hyderabad Proceedings No. BCW 5/200/2008 dated. 9-3-2009 .
2. Revision Petition filed by Sri M. Srinivasulu Reddy & Maram Venkata Ramana Reddy S/o Subbaiah (Late) Kadapa dated. 7-4-2009.
3. Govt. Memo. No. 15866/Assn.IV(1)/09-2 dated. 9-4-2009.
4. Orders dated. 28-4-2009 of APHC in WP No. 8875/2009 filed by Sri Maram Srinivasulu Reddy and Maram Venkata Ramana Reddy (Revision Petitioners herein).
5. From the Collector, Kadapa Letter No. E2/1902/2009, dated. 17-7-2009

ORDER :

Whereas in the reference 1st read above, the Commissioner of Appeals have passed the orders upholding the orders of Joint Collector, Kadapa in D.Dis.E2/1950/06 dated. 3-3-2008 wherein he has cancelled the orders of the Revenue Divisional Officer, Kadapa in his Proceedings No. D.Dis./678/90, dated. 25-11-2002 who has cancelled the assignments made to the Respondents herein.

2) Whereas, Sri Maram Srinivasulu Reddy and Maram Venkata Ramana Reddy S/o Subbaiah (Late) Kadapa District have filed Revision Petition in the second read above against the orders of the Commissioner, Appeals Proceedings No. BCW 5/200/2008 dated. 9-3-2009 and prayed to set aside the orders of the Commissioner of Appeals and restore the original assignment passed in B1/DKT/381/1378, dated. 2-7-1969 and grant stay of dispossession pending disposal of the Revision Petition and pass orders as deemed fit. They among the other things, filed the following grounds in support of their claim:

1. The Commissioner of Appeals has committed the same error as was committed by the Joint Collector, in not verifying the No.2 Adangal from 1380 F to 1383F.
2. The Commissioner of Appeals has failed to note that the respondents (1) and (2) herein have never produced even a scrap of paper to prove that they reclaimed the lands and that their names were shown in any of the Adangals.
3. The Commissioner has failed to note that Maram Subbaiah's name is shown as the enjoyer of the schedule lands in the adangals as well as in the Settlement Register wherein it is shown that paddy, Ulava etc., are grown for the years 1380F, 1383F, 1385F and in the No.2 adangals for the period 1374 F to 1378 F, ulava crop was shown and Maram Subbaiah's name was shown as the occupant. These documents clinch the issue that Subbaiah brought the land under cultivation within 3 years from the date of assignment. Whereas the Lower Court record shows that the MRO issued a certificate that though Maram Subbaiah's name finds place as occupant during the

years 1380F,1382F,1383F, 1385F, 88, 89, 91, 92, 93 and 94 Faslis, no crop was booked, without filing the original adangals in support of his finding. Failing to show the dry crops raised during these years was done deliberately as he wanted to assign the same land to others which shows his interestedness. Though the petitioner applied for certified copies of the Adangals for the above years under RTI Act, no copies were furnished and no reply was given.

The Commissioner of Appeals overlooked all this documentary evidence though the records were very much available before him.

4. The Commissioner of Appeals has failed to note the high handedness of the MRO in giving a show cause notice after 20 years of the original grant of assignment.

Though all the relevant decisions of the Hon'ble High Court were referred to before the Commissioner of Appeals, he failed to appreciate the same and never applied his mind to the decisions of the High Court and passed a cryptic order though making a reference to the judgments in the body of his order impugned herein.

5. The Commissioner of Appeals has failed to note that by dismissing the R.P. by stating that the respondents are poor Harijans and they have no other lands except these assigned lands is by itself not a reasoned and speaking order, he has denied the petitioners herein who are the legal heirs of the original assignee of their legal rights particularly when the original assignee has not contravened any of the conditions of assignment.
6. The Commissioner of Appeals has failed to note that a new point i.e., G. Krishna Reddy obtained benami patta in the name of Maram Subbaiah was for the first time raised before the Joint Collector, Kadapa, and this allegation was not made by the respondents (1) and (2) at any time before the other Revenue Authorities and it is without any basis. Further, no additional point can be raised at the stage of R.P.
7. The finding of the Commissioner that Maram Subbaiah has not cultivated the assigned land within 3 years from the date of assignment i.e., 2.7.1969 is absolutely contrary to the certified copies of No.2 adangals filed from 1970-1972. The further finding that one Sri G. Krishna Reddy is in possession of the land and erected mud bunds is not based on any material on record.
8. The Commissioner's finding in paragraph 17 of the order is contrary to the documentary evidence on record and hence the order is liable to be set aside.

3. Whereas in the reference 3rd read above, the District Collector, Kadapa and the Commissioner of Appeals, O/o Chief Commissioner of Land Administration, Hyderabad have been requested to furnish the parawise remarks and connected records on the Revision Petition.

4) And whereas on verification of the records the brief facts of the case are as follows:-

1. The disputed land in Sy No. 16/3 extent Ac 4-70 cents of Pulluru (V) is originally classified as Govt waste land.

2. The said land was assigned to Sri Maram Subbaiah S/o Subba Ramaiah of Ajaneyula Kottalu H/o Pulluru (V) Kajipet (M) vide DKT No. 381/78 dated. 2-7-1969.
3. Sri Pulluru Nadipi Narayana and Sri Pulluru Chinna Narayana (1st and 2nd Respondents in the present RP) SCs of Bosireddipalli H.W. H/o Appanapalli (V) have submitted application for assignment of the said land as the land was under their occupation by way of cultivation.
4. The then MRO, Kajipet along with MRI and Surveyor have inspected the site on 11-6-1989 and observed that an extent of Ac 2-30 cents of land was under occupation of Sri Pulluru Nadipi Narayana and Sri Pulluru Chinna Narayana @ Ac 1-15 cents each by way of cultivation and remaining land was kept fallow.
5. As such the entire land was resumed to the Govt after due process by the MRO, Kajipet vide his Progs No. B/574/89 dated. 10-8-1989 and re-assigned to Sri Pulluru Nadipi Narayana S/o Naraiah and Pulluru Chinna Narayana S/o Naraiah and issued PPB & TDs vide DKT No 11/99, 10/99 dt. 1-9-89 respectively.
6. Aggrieved by these orders, Sri Maram Subbaiah has filed OS No. 635/89 in the Court of Dist Munsiff court, Kadapa.
7. The Court has appointed a Commission for enquiry and the commission inspected the field along with Mandal Surveyor and reported that a Cholan crop on the southern side of the land was raised by the Respondents in this RP and remaining was kept fallow.
8. Based on the report of the Commission the court has delivered its orders on 24-6-1991 and observed that the appellant has not filed any proof that he has been in possession of the scheduled property and held that under the BSO, the orders passed by the MRO are subject to an appeal before the concerned Revenue Authorities, as the Civil Courts have no jurisdiction to try the case and also directed the petitioner to file an appeal before the RDO who is the next appellate authority to MRO.
9. As per the above court orders, Sri Maram Subbaiah has filed an appeal before the RDO, Kadapa against the resumption orders of MRO, Khajipet.
10. The RDO, Kadapa after due enquiry, pronounced order vide Ref D. Dis 678/90 dt. 25-11-2002 setting-aside the orders passed by the MRO, Khajipet in having resumed the land in Sy No. 16/3 ext 4-70 acres of Pulluru Village to the Govt.
11. Aggrieved by the orders passed by the RDO, Kadapa Sri Pulluru Nadipi Narayana S/o Naraiah and P. Chinna Narayana S/o Naraiah filed Revision Petition before the Joint Collector to set aside the orders of the RDO, Kadapa dated. 25-11-2002.
12. The Joint Collector, Kadapa after thorough enquiry and close scrutiny and verification of documentary evidences available on the records of the MRO's Office, Khajipet and RDO's Office, Kadapa, has passed orders vide D.Dis No. E2/1950/06 dated. 3-3-2008 setting aside the orders passed by the RDO, Kadapa dated. 25-11-2002.
13. Aggrieved by the orders of the Joint Collector, Kadapa Sri Maram Srinivasul Reddy and Sri Maram Venkata Ramana Reddy have filed an appeal before the Commissioner of Appeals, O/o Chief Commissioner of Land Administration, Hyderabad for setting aside the orders of the Joint Collector, Kadapa orders dated. 3-3-2008.
14. The Commissioner of Appeals, O/o Chief Commissioner of Land Administration, Hyderabad after due enquiry has passed orders vide his Progs No. BCW 5/200/2008

dated. 9-3-2009 upholding the orders of Joint Collector , Kadapa dated. 3-3-2008 with the observation that there is no valid reasons to interfere with the orders of the Joint Collector, Kadapa dated. 3-3-2008.

5) Whereas, the Revision Petitioners have filed W.P. No. 8875/2009 in APHC for grant of stay of dispossession pending disposal of the present R.P. by the Govt, the APHC in its orders dated. 28-4-2009, while disposing off the W.P. directed that, the petitioners shall be entitled to remain in possession of the land in question pending disposal of the Revision before the Govt and also directed to the Govt to dispose off the Revision Petition itself within a period of four months from the date of receipt of the copy of the orders.

6) And whereas the Revision Authority heard the case on 7-4-2011. The Advocate for the Revision Petitioners has attended the hearing and argued the case and reiterated the grounds filed in the Revision Petition and has not filed any further written arguments. The Respondents have also attended and they have not engaged any counsel to argue their case and they requested to do justice. The Tahsildar, Khajipet Mandal also attended along with connected records.

7) And whereas Government, being the Revision Authority, after hearing the arguments of the Advocate of the Revision Petitioners and also after perusing the original records made available by the Collector, Kadapa and also the report of Tahsildar, Khajipet have observed as follows :-

- 1) For the contention of the Revision Petitioners that the Commissioner of Appeals, O/o Chief Commissioner of Land Administration, Hyderabad as well as the Joint Collector, Kadapa have failed to verify No.3 Adangal from Fasli 1380 to 1383 and enjoyment, the Respondents have not even a scrap of paper to prove that they reclaimed the lands and their names were also not shown in any of the Adangal, It is reported that as per certified copies of the Adangals produced by Sri Maram Subbaiah, there were no crop booked for the Faslis from 1374 to 1378. After close verification of all connected records and Adangals and Personal inspection, the then MRO, Khajipet has resumed the disputed land as the assignees failed to bring the land under cultivation within the stipulated time. The Commission appointed by the Court of District Munsif, Kadapa after personal inspection of the scheduled land, stated that a Cholan crop on the southern side of the land was raised by the Respondents in this RP and remaining was kept fallow. Hence the averments made by the Revision Petitioners are false and baseless.
- 2) During the enquiry conducted by the then MRI and MRO, Khajipet, the respectable persons of the village, have informed that the said land is under the possession of Sri G. Krishna Reddy and also given statement to that effect. Therefore it is clear evidence that the scheduled land is under illegal occupation of Sri G. Krishna Reddy which is a violation of POT Act 9/77 and the land is liable for resumption to Govt to assign to other eligible persons.
- 3) when the entire land of Ac 4-70 was resumed to the Govt vide Progds No. B/574/89 dated. 10-8-1989 and re-assigned an extent of Ac 2-30 to the Respondents herein vide DKT Nos 11/99, 10/99 dated. 1-9-1989 as it was under their occupation and brought it into cultivation, and TTDs and PBs were issued there is no ground / title over the land, in favour of the present Revision Petitioners.
- 4) it is also observed that, the Petitioners herein have produced the LR Receipts Nos 717940; 717941 dated 15-3-1990 for the period from 1384 to 1389 Fasli and 1390 to 1398 Fasli respectively in support of their enjoyment, shows that the Petitioners after knowing the fact of resumption orders and re-assignment of the subject lands, have paid the Land Revenue at stretch for the period 15 years at a time show it in support of their claim. As such it has no valid merits since they

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have acted only after resumption of the land which shows that they were not in possession and enjoyment of the assigned land.

8) In view of the above, I do not see any valid reasons to interfere with the Proceedings No. BCW 5/200/2008 dated. 9-3-2009 of the Commissioner (Appeals), O/o the Chief Commissioner of Land Administration, Hyderabad and accordingly hereby dismiss the Revision Petition filed by Sri Maram Srinivasulu Reddy & Maram Venkata Ramana Reddy S/o Subbaiah (Late) Kadapa.

9). The Commissioner (Appeals) O/o the Spl.C.S. & Chief Commissioner of Land Administration, Hyderabad and the District Collector, YSR District at Kadapa shall take necessary action accordingly.

10) The following records received through the reference 5th cited are returned herewith and acknowledge the same:

- i) Collector, Kadapa File D. Dis E2/1950/06 dated. 3-3-2008 CF 1-140 & NF 1-11
- ii) RDO, Kadapa File D. Dis 678/E/90 dated. 25-11-2002 CF 1-247 & NF 1-30.
- iii) DKT Files – 3 Sri Maram Subbaiah, Pulluru Chinna Narayana & Nadipi Narayana.
- iv) MRO, Khajipet D. Dis 574/89 CF 1to 191 & NF 1 to 8
- v) MRO, Khajipet Open File Ref B/574/89 CF 1 to 175.

(BY ORDER IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT

To

Sri Maram Srinivasulu Reddy

Sri Maram Venkata Ramana Reddy Kadapa (Petitioners)

Sri Pulluru Nadipi Narayana

Sri Pulluru Chinna Narayana

(Through Tahsildar, Khajipeta, Kadapa YSR District

and he is requested to serve the notice and furnish the served copies to the Govt well in advance.)

The Commissioner (Appeals), O/o Spl. Chief Secretary &

Chief Commissioner of Land Administration, Hyderabad

The District Collector, YSR District at Kadapa

The G.P. for Revenue (Assgn), APHC, Hyderabad

for appraising the matter to the Hon'ble APHC.

Copy to:-

Smt A. Rathna & M. Sita Advocates, H.No. 3-6-782, Flat No. 106, 2nd Floor,

B-Block Banjarara Sadan Apartments, Street No. 14,

Himayathnagar, Hyderabad – 500 029. (Counsel for Petitioner)

SF/SC.

//Forwarded::By Order//

SECTION OFFICER